

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

RAYMOND ANDREW CLARK,)
)
Plaintiff,)
)
vs.)
)
CHARLES TRAUGHBER, et al.,)
)
Defendants.)

No. 04-1174 T/An

FILED BY 8 D.C.
05 JUN 14 PM 4:29
ROBERT R. DI TROLO
CLERK OF U.S. DIST. CT
WD. OF TN-JACKSON

ORDER DENYING MOTION FOR LEAVE TO FILE
SUPPLEMENTAL COMPLAINT

Before the Court is Plaintiff's Motion for Leave to File Supplemental Complaint filed on May 9, 2005. For the reasons set forth below, the Motion is **DENIED** without prejudice.

Federal Rule of Civil Procedure 5(d) provides that "[a]ll papers after the complaint required to be served upon a party, together with a certificate of service, must be filed with the court within a reasonable time after service." Fed. R. Civ. P. 5(d). While Plaintiff forwarded a copy of his motion to Mr. C. Edward Scudder, Jr., Plaintiff did not forward a copy of this motion to Defendants' attorney, Mr. Bradley W. Flippin. Because Plaintiff did not comply with Fed. R. Civ. P. 5(d), his Motion should be denied.

Plaintiff also failed to file a Certificate of Consultation as required by Local Rule 7.2(a)(1)(B) of the Local Rules of the United States District Court for the Western District of Tennessee. Local Rule 7.2(a)(1)(B) provides:

Consultation by Counsel. All motions, including discovery motions, but not including motions pursuant to Fed. R. Civ. P. 12, 56, 59, and 60 shall be

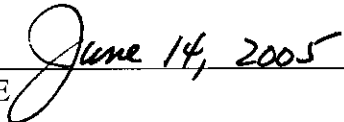
accompanied by a certificate of counsel (with one copy) affirming that, after consultation between the parties to the controversy, they are unable to reach an accord as to all issues or that all other parties are in agreement with the action requested by the motion. Failure to file an accompanying certificate of consultation may be deemed good grounds for denying the motion.

The certificate must contain the names of participating counsel and the date and manner of consultation. The burden will be on counsel filing the motion to initiate the conference upon giving reasonable notice of the time, place and specific nature of the conference. If an opposing counsel or party refuses to cooperate in the conduct of a conference, counsel must file certificate to that effect, setting out counsel's efforts to comply with this rule.

Therefore, because Plaintiff did not serve a copy of the instant motion on Defendants' counsel and because Plaintiff did not comply with Local Rule 7.2, the motion is **DENIED** without prejudice. Plaintiff is welcome to re-file the instant motion after comply with Fed. R. Civ. P. 5(d) and the Local Rules.

IT IS SO ORDERED.


S. THOMAS ANDERSON
UNITED STATES MAGISTRATE JUDGE

DATE 



Notice of Distribution

This notice confirms a copy of the document docketed as number 33 in case 1:04-CV-01174 was distributed by fax, mail, or direct printing on June 15, 2005 to the parties listed.

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Honorable James Todd
US DISTRICT COURT